KA / BG-GPO / 2515 / WPP-47 / 2009-2011

ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೫	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಸೆಪ್ಟೆಂಬರ್ ೧೬, ೨೦೧೦ (ಭಾದ್ರಪದ ೨೫, ಶಕ ವರ್ಷ ೧೯೩೨)	ಸಂಚಿಕೆ ೩೭

ಭಾಗ – ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 31 ಕೇಶಾಪ್ರ 2010, ಬೆಂಗಳೂರು, ದಿನಾಂಕ:27ನೇ ಜುಲೈ, 2010

2010ನೇ ಸಾಲಿನ ಜೂನ್ 2ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The National Green Tribunal Act, 2010 (No.19 of 2010) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd June, 2010/Jyaistha 12, 1932 (Saka)

The following Act of Parliament received the assent of the President on the 2nd June, 2010, and is hereby published for general information:-

THE NATIONAL GREEN TRIBUNAL ACT, 2010

(No. 19 of 2010)

[2nd June, 2010]

An Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

AND WHEREAS India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment;

AND WHEREAS decisions were taken at the United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, calling upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage;

AND WHEREAS in the judicial pronouncement in India, the right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution;

AND WHEREAS it is considered expedient to implement the decisions taken at the aforesaid conference and to have a National Green Tribunal in view of the involvement of multi-disciplinary issues relating to the environment.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

CHAPTER-I

PRELIMINARY

1. Short Title and Commencement: (1) This Act may be called the National Green Tribunal Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions: (1) In this Act, unless the context otherwise requires,-

(a) "accident" means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance or equipment, or plant, or vehicle resulting in continuous or intermittent or repeated exposure to death, of, or, injury to, any persons or damage to any property or environment but does not include an accident by reason only of war or civil disturbance;

(b) "Chairperson" means the Chairperson of the National Green Tribunal;

(c) "environment" includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property;

(d) "Expert Member" means a member of the Tribunal who, is appointed as such, and holds qualifications specified in sub-section (2) of section 5, and is not a Judicial Member;

(e) "handling", in relation to any hazardous substance, means the manufacture, processing, treatment, package, storage, transportation, use, collection destruction, conversion, offering for sale, transfer or the like of such hazardous substance;

(f) "hazardous substance" means any substance or preparation which is defined as hazardous substance in the Environment (Protection) Act, 1986, (29 of 1986) and exceeding such quantity as specified or may be specified by the Central Government under the Public Liability Insurance Act, 1991, (6 of 1991);

(g) "injury" includes permanent, partial or total disablement or sickness resulting out of an accident;

(h) "Judicial Member" means a member of the Tribunal who is qualified to be appointed as such under sub-section (1) of section 5 and includes the Chairperson;

(i) "notification" means a notification published in the Official Gazette;

(j) "person" includes-

(i) an individual.

(ii) a Hindu undivided family,

(iii) a company;

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or not,

(vi) trustee of a trust,

(vii) a local authority, and

(viii) every artificial judicial person, not falling within any of the preceding sub-clauses;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Schedule" means Schedules I, II and III appended to this Act;

(m) "substantial question relating to environment" shall include an instance where,-

(i) there is a direct violation of a specific statutory environmental obligation by a person by which,-

(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B) the gravity of damage to the environment or property is substantial; or

(C) the damage to public health is broadly measurable;

(ii) the environmental consequences relate to a specific activity or a point source of pollution;

(n) "Tribunal" means the National Green Tribunal established under section 3;

(o) "workman" has the meaning assigned to it in the Workmen's Compensation Act, 1923 (8 of 1923);

(2) The words and expressions used in this Act but not defined herein and defined in the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), the Water (Prevention and Control of Pollution) Cess Act, 1977, (36 of 1977), the Forest (Conservation) Act, 1980, (69 of 1980), the Air (Prevention and Control of Pollution) Act, 1981, (14 of 1981), the Environment (Protection) Act, 1986, (29 of 1986), the Public Liability Insurance Act, 1991 (6 of 1991) and the Biological Diversity Act, 2002 (18 of 2003) and other Acts relating to environment shall have the meaning, respectively, assigned to them in those Acts.

CHAPTER-II

ESTABLISHMENT OF THE TRIBUNAL

3. Establishment of Tribunal: The Central Government shall, by notification, establish, with effect from such date as may be specified therein, a Tribunal to be known as the National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

4. Composition of Tribunal: (1) The Tribunal shall consist of-

(a) a full time Chairpersons;

(b) not less than ten but subject to maximum of twenty full time Judicial Members as the Central Government may, from time to time, notify;

(c) not less than ten but subject to maximum of twenty full time Expert Members, as the Central Government may, from time to time, notify.

(2) The Chairperson of the Tribunal may, if considered necessary, invite any one or more person having specialized knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.

(3) The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.

(4) The Central Government may, in consultation with the Chairperson of the Tribunal, make rules regulating generally the practices and procedure of the Tribunal including-

(a) the rules as to the persons who shall be entitled to appear before the Tribunal;

(b) the rules as to the procedure for hearing applications and appeals and other matters [including the circuit procedure for hearing at a place other than the ordinary place of its

sitting falling within the jurisdiction referred to in sub-section (3), pertaining to the applications and appeals;

(c) the minimum number of Members who shall hear the applications and appeals in respect of any class or classes of applications and appeals;

Provided that the number of Expert Members shall, in hearing an application or appeal, be equal to the number of Judicial Members hearing such application or appeal;

(d) rules relating to transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting.

5. Qualifications for appointment of Chairperson, Judicial Member and Expert Member: (1) A person shall not be qualified for appointment as the Chairperson or Judicial Member of the Tribunal unless he is, or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court:

Provided that a person who is or has been a Judge of the High Court shall also be qualified to be appointed as a Judicial Member.

(2) A person shall not be qualified for appointment as an Expert Member, unless he,-

(a) has a degree in Master of Science (in physical sciences or life sciences) with a Doctorate degree or Master of Engineering or Master of Technology and has an experience of fifteen years in the relevant field including five years practical experience in the field of environment and forests (including pollution control, hazardous substance management, environment impact assessment, climate change management, biological diversity management and forest conservation) in a reputed National level institution; or

(b) has administrative experience of fifteen years including experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution.

(3) The Chairperson, Judicial Member and Expert Member of the Tribunal shall not hold any other office during their tenure as such.

(4) The Chairperson and other Judicial and Expert Members shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Tribunal under this Act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

6. Appointment of Chairperson, Judicial Member and Expert Member: (1) Subject to the provisions of section 5, the Chairpersons, Judicial Members and Expert Members of the Tribunal shall be appointed by the Central Government.

(2) The Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India.

(3) The Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of such Selection Committee and in such manner as may be prescribed.

7. Term of office and other conditions of service of Chairperson, Judicial Member and Expert Member: The Chairperson, Judicial Member and Expert Member of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment:

Provided that in case a person, who is or has been a Judge of the Supreme Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of seventy years:

Provided further that in case a person, who is or has been the Chief Justice of a High Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that in case a person, who is or has been a Judge of a High Court, has been appointed as Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that no Expert Member shall hold office after he has attained the age of sixty-five years.

8. Resignation: The Chairpersons, Judicial Member and Expert Member of the Tribunal may, by notice in writing under their hand addressed to the Central Government, resign their office.

9. Salaries, allowances and other terms and conditions of service: The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson, Judicial Member and Expert Member shall be varied to their disadvantage after their appointment.

10. removal and suspension of Chairperson, Judicial Member and Expert Member: (1) The Central Government may, in consultation with the Chief Justice of India, remove from office of the Chairperson or Judicial Member of the Tribunal, who,-

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or Judicial Member shall not be removed from his office except by an order made by the Central government after an inquiry made by a Judge of the Supreme Court in which such Chairperson or Judicial Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may suspend from office the Chairperson or Judicial Member in respect of whom a reference of conducting an inquiry has been made to the Judge of the Supreme Court under sub-section (2), until the Central Government passes an order on receipt of the report of inquiry made by the Judge of the Supreme Court on such reference.

(4) The Central Government may, by rules, regulate the procedure for inquiry referred to in sub-section (2).

(5) The Expert Member may be removed from his office by an order of the Central Government on the grounds specified in sub-section (1) and in accordance with the procedure as may be notified by the Central government:

Provided that the Expert Member shall not be removed unless he has been given an opportunity of being heard in the matter.

11. To act as Chairperson of Tribunal or to discharge his functions in certain circumstances: In the event of the occurrence of any vacancy in the office of the Chairperson of the Tribunal, by reason of his death, resignation or otherwise, such Judicial Member of the Tribunal as the Central Government may, by notification, authorize in this behalf, shall act as the Chairperson until the date on which a new Chairperson is appointed in accordance with the provisions of this Act.

12. Staff of Tribunal: (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions.

(2) The recruitment of the officers and other employees of the Tribunal shall be made by the Chairperson in such manner as may be prescribed.

(3) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson.

(4) The salaries and allowances and conditions of service of the officers and other employees of the Tribunal shall be such as may be prescribed.

13. Financial and administrative power of Chairperson: The Chairperson of the Tribunal shall exercise such financial and administrative powers as may be vested in him under the rules made by the Central Government:

Provided that the Chairperson may delegate such of his financial and administrative powers, as he may think fit, to any Judicial Member or Expert Member or officer of the Tribunal subject to the condition that the Member or such officer, while exercising such delegated power, continues to act under the direction, control and supervision of the Chairperson.

CHAPTER-III

JURISDICTION, POWERS AND PROCEEDINGS OF THE TRIBUNAL

14. Tribunal to settle disputes: (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

15. Relief, Compensation and Restitution: (1) The Tribunal may, by an order, provide,-

(a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

(b) for restitution of property damaged;

(c) for restitution of the environment for such area or areas,

as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose;

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient eause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or as the case may be, compensation or relief received from, any other court or authority.

16. Tribunal to have appellate Jurisdiction: Any person aggrieved by,-

(a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(b) an order passed, on or after the Commencement of the National Green Tribunal Act, 2010, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(c) directions issued, on or after the Commencement of the National Green Tribunal Act, 2010, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(d) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977 (36 of 1977);

(e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under section 2 of the Forest (Conservation) Act, 1980 (69 of 1980);

(f) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986 (29 of 1986);

(h) an order made, on or after the commencement of the National Green Tribunal Act, a 2010, granting environmental clearance in the area a in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);

(i) an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986 (29 of 1986);

(j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002 (18 of 2003),

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

17. Liability to pay relief or compensation in certain cases: (1) Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule 1, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal.

(2) If the death, injury or damage caused by an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I cannot be attributed to any single activity or operation or process but is the combined or resultant effect of several such activities, operations and processes, the Tribunal may, apportion the liability for relief or compensation amongst those responsible for such activities, operations and processes on an equitable basis.

(3) The Tribunal shall, in case of an accident, apply the principle of no fault.

18. Application or appeal to Tribunal: (1) Each application under sections 14 and 15 or an appeal under section 16 shall, be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed.

(2) Without prejudice to the provisions contained in section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by-

(a) the person, who has sustained the injury; or

(b) the owner of the property to which the damage has been caused; or

(c) where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or

(d) any agent duly authorized by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or

(e) any person aggrieved, including any representative body or organisation; or

(f) the Central Government or a State Government or a Union territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a local authority, or any environmental authority constituted or established under the Environment (Protection) Act, 1986 (29 of 1986) or any other law for the time being in force:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation or relief or settlement of dispute, the application shall be made on behalf of, or, for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application:

Provided further that the person, the owner, the legal representative, agent, representative body or organization shall not be entitled to make an application for grant of relief or compensation or settlement of dispute if such person, the owner, the legal representative, agent, representative body or organization have preferred an appeal under section 16.

(3) The application, or as the case may be, the appeal filed before the Tribunal under this Act shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application, or, as the case may be, the appeal, finally within six months from the date of filing of the application, or as the case may be, the appeal, after providing the parties concerned an opportunity to be heard.

19. Procedure and powers of Tribunal: (1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice.

(2) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.

(3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872 (1 of 1872).

(4) The Tribunal shall have, for the purposes of discharging its functions under this Act the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, (5 of 1908) while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, (1 of 1872) requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decision;

(g) dismissing an application for default or deciding it ex parte;

(h) setting aside any order of dismissal of any application for default or any order passed by it ex parte;

(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act;

(j) pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I;

(k) any other matter which may be prescribed.

(5) All proceedings before the Tribunal shall be deemed to be the judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian (45 of 1860) Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

20. Tribunal to apply certain principles: The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.

21. Decision to be taken by majority: The decision of the Tribunal by majority of Members shall be binding:

Provided that if there is a difference of opinion among the Members hearing an application or appeal, and the opinion is equally divided, the Chairperson shall hear (if he has not heard earlier such application or appeal) such application or appeal and decide:

Provided further that where the Chairperson himself has heard such application or appeal alongwith other Members of the Tribunal, and if there is a difference of opinion among the Members in such cases and the opinion is equally devided, he shall refer the matter to other Members of the Tribunal who shall hear such application or appeal and decide.

22. Appeal to Supreme Court: Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of Communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):

Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.

23. Cost: (1) While disposing of an application or an appeal under this Act, the Tribunal shall have power to make such order as to costs, as it may consider necessary.,

(2) Where the Tribunal holds that a claim is not maintainable, or is false or vexatious, and such claim is disallowed, in whole or in part, the Tribunal may, if it so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunction.

24. Deposit of amount payable for damage to environment: (1) Where any amount by way of compensation or relief is ordered to be paid under any award or order made by the Tribunal on the ground of any damage to environment, that amount shall be remitted to the authority specified under sub-section (3) of section 7A of the Public Liability Insurance Act, 1991 (6 of 1991) for being credited to the Environmental Relief Fund established under that section.

(2) The amount of compensation or relief credited to the Environmental Relief Fund under sub-section (1), may, notwithstanding anything contained in the Public Liability Insurance Act, 1991, (6 of 1991), be utilised by such persons or authority, in such manner and for such purposes relating to environment, as may be prescribed.

25. Execution of award or order or decision of Tribunal: (1) An award or order or decision of the Tribunal under this Act shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may transmit any order or award made by it to a civil court having local jurisdiction and such civil court shall execute the order or award as if it were a decree made by that court.

(3) Where the person responsible, for death of, or injury to any person or damage to any property and environment, against whom the award or order is made by the Tribunal fails to make the payment or deposit the amount as directed by the Tribunal within the period so specified in the award or order, such amount, without prejudice to the filing of complaint for prosecution for an offence under this Act or any other law for the time being in force, shall be recoverable from the aforesaid person as arrears of land revenue or of public demand.

CHAPTER-IV
PENALTY

26. Penalty for failure to comply with orders of Tribunal: (1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention:

Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.

27. Offences by companies: (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed by the company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

28. Offences by Government Department: (1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER-V

MISCELLANEOUS

29. Bar of jurisdiction: (1) With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

(2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment damaged shall be granted by the civil court.

30. Cognizance of offences: (1) No court shall take cognizance of any offence under this Act except on a complaint made by-

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days in such manner as may be prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

(2) No court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall try any offence punishable under this Act.

31. Members and staff of Tribunal to be public servants: The Chairperson, the Judicial and Expert Members, officers and other employees of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code (45 of 1860).

32. Protection of action taken in good faith: (1) No suit or other legal proceedings shall lie against the employees of the Central Government or a State Government or any statutory authority, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against the Chairperson or, Judicial Member or Expert Member of the Tribunal or any other person authorised by the Chairpersons or Judicial Member or the Expert Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

33. Act to have overriding effect: The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

34. Power to amend Schedule 1: (1) The Central Government may, by notification, amend the Schedule 1 by including therein any other Act, enancted by Parliment having regard to the objective of environemntal protection and conservation of natural resources, or omitting there from any Act already specified therein and on the date of publication of such notification, such Act shall be deemed to be included in or, as the case may be, omitted from the Schedule 1.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

35. Power to make rules: (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) rules as to the persons who shall be entitled to appear before the Tribunal under clause (a) of sub-section (4) of section 4;

(b) the procedure for hearing applications and appeals and other matters pertaining to the applications and appeals under clause (b) of sub-section (4) of section 4;

(c) the minimum number of members who shall hear the applications and appeals in respect of any class or classes of applications and appeals under clause (c) of sub-section (4) of section 4;

(d) the transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting;

(e) the selection committee and the manner of appointment of the Judicial Member and Expert Member of the Tribunal under sub-section (3) of section 6;

(f) the salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal under section 9;

(g) the procedure for inquiry of the charges against the Chairperson or Judicial Member of the Tribunal under sub-section (4) of section 10;

(h) the recruitment of officers and other employees of the Tribunal under sub-section (2) of section 12; and the salaries and allowances and other conditions of service of the officers and other employees of the Tribunal under sub-section (4) of that section;

(i) the financial and administrative powers to be exercised by the Chairperson of the Tribunal under section 13;

(j) the form of application or appeal, the particulars which it shall contain and the documents to be accompanied by and the fees payable under sub-section (1) of section 18;

(k) any such matter in respect of which the Tribunal shall have powers of a civil court under clause (k) of sub-section (4) of section 19;

(l) the manner and the purposes for which the amount of compensation or relief credited to the Environment Relief Fund shall be utilised under sub-section (2) of section 24;

(m) the manner of giving notice to make a complaint under clause (b) of sub-section (1) of section 30;

(n) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may, be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

36. Amendment of certain enactments: The enactments specified in the Schedule III to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Tribunal.

37. Power to remove difficulties: (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

38. Repeal and savings: (1) The National Environment Tribunal Act, 1995 (27 of 1995) and the National Environment Appellate Authority Act, 1997 (22 of 1997) are hereby repealed (hereinafter referred to as the repealed Act)

(2) Notwithstanding such repeal, anything done or any action taken under the said Acts shall be deemed to have been done or taken under the corresponding provisions of this Act.

(3) The National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997, (22 of 1997) shall, on the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, stand dissolved.

(4) On the dissolution of the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997 (22 of 1997), the persons appointed as the Chairperson, Vice-chairperson and every other person appointed as Member of the said National Environment Appellate Authority and holding office as such immediately before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, shall vacate their respective offices and no such Chairperson, Vice-chairperson and every other person appointed as Member shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

(5) All cases pending before the National Environment Appellate Authority established under sub-section (1) of section 3 of the National Environment Appellate Authority Act, 1997 (22 of 1997) on or before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, shall on such establishment, stand transferred to the said National Green Tribunal and the National Green Tribunal shall dispose of such cases as if they were cases filed under that Act.

(6) The officers or other employees who have been, immediately before the dissolution of the National Environment Appellate Authority appointed on deputation basis to the National Environment Appellate Authority, shall, on such dissolution, stand reverted to their parent cadre, Ministry or Department, as the case may be.

(7) On the dissolution of the National Environment Appellate Authority, the officers and other employees appointed on contract basis under the National Environment Appellate Authority and holding office as such immediately before such dissolution, shall vacate their respective offices and such officers and other employees shall be entitled to claim compensation for three months' pay and allowances or pay and allowances for the remaining period of service, whichever is less, for the premature termination of term of their office under their contract of service.

(8) The mention of the particular matter referred to in sub-section (2) to (7) shall not be held to prejudice or affect the general application of section 6 of the General clauses Act, 1897 (10 of 1897) with regard to the effect of repeal.

SCHEDULE-I

[See sections 14(1), 15(1), 17(1)(a), 17(2), 19(4) (J) and 34(1)]

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) Cess Act, 1977;
3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1986;
6. The Public Liability Insurance Act, 1991;
7. The Biological Diversity Act, 2002.

SCHEDULE-II

[See sections 15(4) and 17(1)]

HEADS UNDER WHICH COMPENSATION OR RELIEF FOR DAMAGE MAY BE CLAIMED

(a) Death;

(b) Permanent, temporary, total or partial disability or other injury or sickness;

(c) Loss of wages due to total or partial disability or permanent or temporary disability;

(d) Medical expenses incurred for treatment of injuries or sickness;

(e) Damages to private property;

(f) Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons;

(g) Expenses incurred by the Government for any administrative or legal action or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of environment;

(h) Loss to the Government or local authority arising out of, or connected with, the activity causing any damage;

(i) Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauna;

(j) Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;

(k) Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;

(l) Loss and destruction of any property other than private property;

(m) Loss of business or employment or both;

(n) Any other claim arising out of, or connected with, any activity of handling of hazardous substance.

SCHEDULE-III

(See Section 36)

AMENDMENT TO CERTAIN ENACTMENTS

PART-I

AMENDMENT TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

(6 of 1974)

Insertion of new section 33B: After section 33A, the following section shall be inserted, namely:-

"33B. Appeal to National Green Tribunal: Any persons aggrieved by,-

(a) an order or decision of the appellate authority under section 28, made on or after the commencement of the National Green Tribunal Act, 2010; or

(b) an order passed by the State Government under section-29, on or after the commencement of the National Green Tribunal Act, 2010; or

(c) directions issued under section 33A by a Board, on or after the commencement of the National Green Tribunal Act, 2010.

may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.".

PART-II

AMENDMENTS TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) CESS ACT, 1977

(36 OF 1977)

1. Amendment of section 13: In section 13, in sub-section (4), for the words "Shall be final, the words, figures and letters "shall, if no appeal has been filed under section 13A, be final" shall be substituted.

2. Insertion of new section 13A: After section 13, the following section shall be inserted, namely:-

"13A. Appeal to National Green Tribunal: Any persons aggrieved, by an order or decision of the appellate authority made under section 13, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.".

PART-III

AMENDMENT TO THE FOREST (CONSERVATION) ACT, 1980

(69 OF 1980)

Insertion of new section 2A: After section 2, the following section shall be inserted, namely:-

"2A. Appeal to National Green Tribunal: Any person aggrieved, by an order or decision of the State Government or other authority made under section 2, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.".

PART-IV

AMENDMENT TO THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

(14 OF 1981)

Insertion of new section 31B: After section 31A, the following section shall be inserted, namely:-

"31B: Appeal to National Green Tribunal: Any person aggrieved by an order or decision of the Appellate Authority under section 31, made on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.".

PART-V

AMENDMENT TO THE ENVIRONMENT (PROTECTION) ACT, 1986

(29 OF 1986)

Insertion of new section 5A: After section 5A, the following section shall be inserted, namely:-

"5A: Appeal to National Green Tribunal: Any person aggrieved by any directions issued under section 5, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.".

PART-VI

AMENDMENTS TO THE BIOLOGICAL DIVERSITY ACT, 2002

(18 OF 2003)

1. Amendment of section 52: In section 52, after the proviso, the following provisos shall be inserted, namely:-

"Provided further that nothing contained in this section shall apply on and from the commencement of the National Green Tribunal Act, 2010:

Provided also that any appeal pending before the High Court, before the commencement of the National Green Tribunal Act, 2010, shall continue to be heard and disposed of by the High Court as if the National Green Tribunal had not been established under section 3 of the National Green Tribunal Act, 2010.".

2. Insertion of new section 52A: After section 52, the following section shall be inserted, namely:-

"52A. Appeal to National Green Tribunal: Any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.".

V.K. BHASIN,
Secy. to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಪಿ.ಆರ್. 38

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 29 ಕೇಶಾಪ್ರ 2010, ಬೆಂಗಳೂರು, ದಿನಾಂಕ:24ನೇ ಜುಲೈ 2010

2010ನೇ ಸಾಲಿನ ಮೇ 18ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ (1) The Payment of Gratuity (Amendment) Act, 2010 (No.15 of 2010) ಮತ್ತು (2) The Plantations Labour (Amendment) Act, 2010 (No.17 of 2010) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th May, 2010/Vaisakha 28, 1932 (Saka)

The following Act of Parliament received the assent of the President on the 17th May, 2010, and is hereby published for general information:

THE PAYMENT OF GRATUITY (AMENDMENT) ACT, 2010

(No. 15 OF 2010)

[17th May, 2010]

An Act further to amend the Payment of Gratuity Act, 1972

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:

1. Short Title and commencement: (1) This Act may be called the Payment of Gratuity (Amendment) Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 4 of Act 39 of 1972: In section 4 of the payment of Gratuity Act, 1972, in sub-section (3), for the words "three lakhs and fifty thousand rupees", the words "ten lakh rupees" shall be substituted.

V.K. BHASIN,

Secy. to the Govt. of India.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th May, 2010/Vaisakha 28, 1932 (Saka)

The following Act of Parliament received the assent of the President on the 18th May, 2010, and is hereby published for general information:

THE PLANTATIONS LABOUR (AMENDMENT) ACT, 2010

(No. 17 OF 2010)

[18th May, 2010]

An Act further to amend the Plantations Labour Act, 1951

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:

1. Short Title and Commencement: (1) This Act may be called the Plantations Labour (Amendment) Act, 2010

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall, in relation to any State, be construed as a reference to the coming into force of that provision in that State.

2. Amendment of section 2: In section 2 of the Plantation Labour Act, 1951 (hereinafter referred to as the principal Act),-

(a) in clause (e), the following Explanation shall be inserted, namely:

'Explanation.- For the purposes of this clause, "the person who has the ultimate control over the affairs of the plantation" means in the case of a plantation owned or controlled by-

(i) a company, firm or other association of individuals, whether incorporated or not, every director, partner or individual;

(ii) the Central Government or State Government or any local authority, the persons or persons appointed to manage the affairs of the plantation; and

(iii) a lessee, the lessee;';

(b) in clause (ee), for the words "and includes, where the worker is a male, his parents dependent upon him", the words "and includes parents and widow sister, dependent upon him or her" shall be substituted;

(c) in clause (k),-

(i) in the opening portion, after the words "manual or clerical", the words "and includes a persons employed on contract for more than sixty days in a year" shall be inserted;

(ii) in sub-clause (ii), for the words "rupees seven hundred and fifty", the words "rupees ten thousand" shall be substituted;

(iii) in sub-clause (iii), for the words "managerial capacity, notwithstanding that his monthly wages do not exceed rupees seven hundred and fifty", the words "managerial or administrative capacity, notwithstanding that his monthly wages do not exceed rupees ten thousand" shall be substituted.

3. Amendment of section 7: In section 7 of the principal Act, in sub-section (2), in clause (b), for the words "and children are, or are to be", the word "are" shall be substituted.

4. Amendment of section 10: In section 10 of the principal Act, in sub-section (2), for the words "chief inspector", the words "State Government upon a request by the chief inspector" shall be substituted.

5. Insertion of new Chapter IVA: After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:

"CHAPTER IVA

PROVISIONS AS TO SAFETY

18A. Safety: (1) In every plantation, effective arrangements shall be made by the employer to provide for the safety of workers in connection with the use, handling, storage and transport of insecticides, chemicals and toxic substances.

(2) The State Government may make rules for prohibiting or, restricting employment of women or adolescents in using or handling hazardous chemicals.

(3) The employer shall appoint persons possessing the prescribed qualifications to supervise the use, handling, storage and transportation of insecticides, chemicals and toxic substances in his plantation.

(4) Every employer shall ensure that every worker in plantation employed for handling, mixing, blending and applying insecticides, chemicals and toxic substances, is trained about the hazards involved in different operations in which he is engaged, the various safety measures and safe work practices to be adopted in emergencies arising from spillage of such insecticides chemicals and toxic substances and such other matters as may be prescribed by the State Government.

(5) Every worker who is exposed to insecticides, chemicals and toxic substances shall be medically examined periodically, in such manner as may be prescribed, by the State Government.

(6) Every employer shall maintain health record of every worker who is exposed to insecticides, chemicals and toxic substances which are used, handled, stored or transported in a plantation, and every such worker shall have access to such record.

(7) Every employer shall provide-

(a) washing, bathing and clock room facilities; and

(b) protective clothing and equipment.

to every worker engaged in handling insecticides, chemicals or toxic substances in such manner as may be prescribed by the State Government.

(8) Every employer shall display in the plantation a list of permissible concentrations of insecticides, chemicals and toxic substances in the breathing zone of the workers engaged in the handling and application of such insecticides, chemicals and toxic substances.

(9) Every employer shall exhibit such precautionary notices as may be prescribed by the State Government indicating the hazards of insecticides, chemicals and toxic substances.

18B. Power of State Government to make rules: (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the restriction on employment of women and adolescents for handling hazardous chemicals under sub-section (2) of section 18A;

(b) the qualifications of supervisor appointed under sub-section (3) of section 18A;

(c) the matters for training of workers under sub-section (4) of section 18A;

(d) the medical examination of workers under sub-section (5) of section 18A;

(e) the facilities and equipment to be provided to the workers engaged in handling insecticides, chemicals and toxic substances under sub-section (7) of section 18A;

(f) the precautionary notices to be exhibited under sub-section (9) of section 18A.".

6. Amendment of Section 19: In section 19 of the principal Act, in sub-section (1), the words, "or child" shall be omitted.

7. Insertion of new section 24: After section 23 of the principal Act, the following section shall be inserted, namely:-

"24. Prohibition of employment of Children: No. child shall be employed to work in any plantation.".

8. Amendment of Section 25: In section 25 of the principal Act,-

(a) the words "or child" shall be omitted;

(b) in the marginal heading, the words "and children" shall be omitted.

9. Amendment of Section 26: In section 26 of the principal Act,-

(a) in the opening portion, the words "child and no" shall be omitted;

(b) in clause (b), the words "child or" shall be omitted.

10. Amendment of Section 27: In section 27 of the principal Act, in sub-section (1), the words "either as a child or" shall be omitted.

11. Insertion of new section 32C: After section 32B of the principal Act, the following section shall be inserted. namely:-

"32C. Compensation: The employer shall give compensation to a worker in plantation in case of accident and the memorandum relating to such compensation shall be got registered by the employer with the Commissioner in accordance with the provisions of the Workmen's Compensation Act, 1923" (8 of 1923).

12. Amendment of Sections 33, 35 and 36: In sections 33, 35 and 36 of the principal Act, for the words "three months, or with fine which may extend to five hundred rupees, or with both", wherever they occur, the words "six months, or with fine which may extend to ten thousand rupees, or with both" shall be substituted.

13. Amendment of Section 34: In section 34 of the principal Act, for the words "one month, or with fine which may extend to fifty rupees, or with both," the words "two months, or with fine which may extend to one thousand rupees, or with both" shall be substituted.

14. Amendment of Section 37: In section 37 of the principal Act, for the words "six months, or with fine which may extend to one thousand rupees, or with both", the words "one year, or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees, or with both" shall be substituted.

15.Substitution of new sections for section 39: For section 39 of the principal Act, the following sections shall be substituted.

"39. Congnizance of offences: No court shall take cognizance of any offence under this Act except on a complaint made by any worker or an office bearer of a trade union of which such worker is a member or an inspector and no court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence punishable under this Act.

39A. Protection of action taken in good faith: No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.".

16. Amendment of section 43: In section 43 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Every rule made by the State Government under this Act shall, as soon as may be after it is made, be laid before the State Legislature.".

V.K. BHASIN
Secy. to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
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ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಪಿಆರ್–36

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 30 ಕೇಶಾಪ್ರ 2010, ಬೆಂಗಳೂರು, ದಿನಾಂಕ:26ನೇ ಜುಲೈ 2010

2010ನೇ ಸಾಲಿನ ಜೂನ್ 2ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Employees' State Insurance (Amendment) Act, 2010 (No.18 of 2010) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 25th May, 2010/Jyaistha 4, 1932 (Saka)

The following Act of Parliament received the assent of the President on the 24th May, 2010, and is hereby published for general information:

THE EMPLOYEES' STATE INSURANCE (AMENDMENT) ACT, 2010

(No. 18 OF 2010)

[24th May, 2010]

An Act further to amend the Employees' State Insurance Act, 1948

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:

1. Short Title and Commencement: (1) This Act may be called the Employees' State Insurance (Amendment) Act, 2010.

(2) Section 18 shall be deemed to have come into force on the 3rd day of July, 2008 and the remaing provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of Section 1: In the Employees State Insurance Act, 1948 (34 of 1948) (hereinafter referred to as the principal Act), in section 1, in sub-section (5), for the words "six months':, the words "one month's" shall be substituted.

3. Amendment of Section 2: In section 3 of the principal Act,-

(A) in clause (6A),-

(a) for sub-clause (i), the following sub-clause shall be substituted, namely:-

"(i) a widow, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter,";

(b) in sub-clause (ii), for the words "eighteen years", the words "twenty-five years" shall be substituted;

(B) in clause (9), for the words "or under the standing orders of the establishment;", the words "and includes such person engaged as apprentice whose training period is extended to any length of time" shall be substituted;

(C) in clause (11), for sub-clause (v), the following sub-clauses shall be substituted, namely:

"(v) dependant parents, whose income from all sources does not exceed such income as may be prescribed by the Central Government;

(vi) in case the insured person is unmarried and his or her parents are not alive, a minor brother or sister wholly dependant upon the earnings of the insured person;";

(D) for clause (12), the following clause shall be substituted, namely:-

(12) "factory" means any premises including the precincts thereof whereon ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1952 (35 of 1952) or a railway running shed;'

4. Amendment of Section 10: In section 10 of the principal Act, in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:-

"(a) the Director General, the Employees' State Insurance Corporation, ex officio as Chairman;

(b) the Director General, Health Services, ex officio as Co-chairman;".

5. Amendment of Section 12: In section 12 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) A persons referred to in clause (i) of section 4 shall cease to be a member on becoming a Minister or Speaker or Deputy Speaker of the House of the People or Deputy Chairman of the Council of States or when he ceases to be a member of Parliament.".

6. Amendment of section 17: In section 17 of the Principal Act, in sub-section (2), in clause (a), after the proviso, the following proviso shall be inserted, namely:-

"Provided further that this sub-section shall not apply to appointment of consultants and specialists in various fields appointed on contract basis,".

7. Amendment of Section 37: In section 37 of the principal Act, for the words "five years'', the words "three years" shall be substituted.

8. Amendment of Section 45: In section 45 of the principal Act,-

(a) for the words "Inspectors" and "Inspector", wherever they occur, the words "Social Security Officers" and "Social Security Officer" shall respectively be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:-

"(4) Any officer of the Corporation authorized in this behalf by it may, carry out re-inspection or test inspection of the records and returns submitted under section 44 for the purpose of verifying the correctness and quality of the inspection carried out by a Social Security Officer.".

9. Amendment of Section 45A: In section 45A of the principal Act, in sub-section (1),-

(i) for the words "Inspector", the words "Social Security Officer" shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:-

"Provided further that no such order shall be passed by the Corporation in respect of the period beyond five years from the date on which the contribution shall become payable.".

10. Insertion of new section 45AA: After section 45A of the principal Act, the following section shall be inserted, namely:-

"45AA. **Appellate authority:** If an employer is not satisfied with the order referred to in section 45A, he may prefer an appeal to an appellate authority as may be provided by regulation, within sixty days of the date of such order after depositing twenty-five percent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the Corporation:

Provided that if the employer finally succeeds in the appeal, the Corporation shall refund such deposit to the employer together with such interest as may be specified in the regulation.".

11. Amendment of Sections 51A and 51B: In the principal Act, in sections 51A and 51B, for the words "an insured person's'', the words "an employee's" shall be substituted.

12. Amendment of Sections 51C and 51D: In the principal Act, in sections 51C and 51D, for the words "insured person", the word "employee" shall be substituted.

13. Insertion of new section 51E: After section 51D of the principal Act, the following section shall be inserted, namely:-

"51E. Accidents happening while commuting to the place of work and vice versa: An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.".

14. Amendment of Section 56: In section 56 of the principal Act, in sub-section (3), for the third proviso, the following proviso shall be substituted, namely:-

"Provided also that an insured person who has attained the age of a superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be prescribed by the Central Government.".

15. Amendment of Section 58: In section 58 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:-

"(5) The State Government may, in addition to the Corporation under this Act, with the previous approval of the Central Government, establish such organization (by whatever name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury:

Provided that any reference to the State Government in the Act shall also include reference to the organization as and when such organization is established by the State Government.

(6) The organization referred to in sub-section (5) shall have such structure and discharge functions, exercise powers and undertake such activities as may be prescribed.".

16. Amendment of Section 59: In section 59 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

"(3) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party

participation for providing medical treatment and attendance to insured persons and where such medical benefit has been extended to their families, to their families.".

17. Insertion of new section 59B: After section 59A of the principal Act, the following section shall be inserted, namely:-

59B. Medical and para-medical education: The Corporation may establish medical colleges, nursing colleges and training institutes for its para-medical staff and other employees with a view to improve the quality of services provided under the Employee's State Insurance Scheme.".

18. Substitution of new Chapter for Chapter VA: For Chapter VA of the principal Act, the following Chapter shall be substituted, namely:-

"CHAPTER- VA

SCHEME FOR OTHER BENEFICIARIES

73A Definitions: In this Chapter,-

(a) "other beneficiaries" means persons other than the person insured under this Act;

(b) "Scheme" means any Scheme framed by the Central Government from time to time under section 73B for the medical facility for other beneficiaries;

(c) "underutilized hospital" means any hospital not fully utilized by the persons insured under this Act;

(d) "user charges" means the amount which is to be charged from the other beneficiaries for medical facilities as may be notified by the Corporation in consultation with the Central Government from time to time.

73B. Power to frame Schemes: Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, frame Scheme for other beneficiaries and the members of their families for providing medical facility in any hospital established by the Corporation in any area which is underutilized on payment of user charges.

73C. Collection of user charges: The user charges collected from the other beneficiaries shall be deemed to be the contribution and shall form part of the Employees' State Insurance Fund.

73D. Scheme for other beneficiaries: The Scheme may provide for all or any of the following matters, namely:-

(i) the other beneficiaries who may be covered under this Scheme;

(ii) the time and manner in which the medical facilities may be availed by the other beneficiaries;

(iii) the form in which the other beneficiary shall furnish particulars about himself and his family whenever required as may be specified by the Corporation;

(iv) any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme.

73E: Power to amend Scheme: The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind the Scheme.

73F. Laying of Scheme framed under this Chapter: Every Scheme framed under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or to be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.'.

19. Validation: All things done, or, omitted to be done, and all actions or measures taken or not taken during the period beginning on or after the 3rd day of July, 2008 and ending immediately before the date of commencement of the Employees' State Insurance (Amendment) Act, 2010, shall in so far as they are in conformity with the provisions of this Act, as amended by the Employees' State Insurance (Amendment) Act, 2010, be deemed to have been done, or taken, or not taken, under the provisions of this Act, as amended by the Employees' State Insurance (Amendment) Act, 2010, as if such provisions were in force at the time such things were done or omitted to be done and actions or measures taken or not taken during the said period.

20. Amendment of Section 87: In section 87 of the principal Act, the following provisions shall be inserted at the end, namely:

"Provided that such exemptions may be granted only if the employees in such factories or establishments are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act:

Provided further that an application for renewal shall be made three months before the date of expiry of the exemption period and a decision on the same shall be taken by the appropriate Government within two months of receipt of such application.".

21. Amendment of Section 91A: In Section 91A of the principal Act, for the words "either prospectively or retrospectively", the word "prospectively" shall be substituted.

22. Insertion of new Section 91AA: After Section 91A of the principal Act, the following Section shall be inserted, namely:-

"91AA. Central Government to be appropriate Government: Notwithstanding anything contained in this Act, in respect of establishments located in the States where medical benefits is provided by the Corporation, the Central Government shall be the appropriate Government.".

23. Amendment of Section 95: In Section 95 of the principal Act, in sub-section (2),-

(i) after clause (ef), the following clause shall be inserted, namely:-

"(eff) the income of dependant parents from all sources;";

(ii) after clause (eh), the following clause shall be inserted, namely:-

"(ehh) the conditions under which the medical benefits shall be payable to the insured person and spouse of an insured person who has attained the age of superannuation, the persons who retires under Voluntary Retirement Scheme and the person who takes pre-mature retirement;";

24. Amendment of Section 96: In Section 96 of the principal Act, in sub-section (1), after clause (e), the following clause shall be inserted, namely:-

"(ee) the organizational structure, functions, powers, activities and other matters for the establishment of the organization;";

25. Amendment of Section 97: In Section 97 of the principal Act, in sub-section (2),-

(i) in clause (xx), for the word "Inspectors'', the words "Social Security Officers" shall be substituted;

(ii) after clause (xx), the following clause shall be inserted, namely:-

"(xxa) the constitution of the appellate authority and the interest on amount deposited by the employer with the Corporation.".

V.K. BHASIN,
Secy. to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜಿನಿ

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
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ಪಿಆರ್–37